

Serial No. 09/847,044
Amdt. Dated January 11, 2005
Reply to Final Office Action of November 17, 2004

REMARKS/ARGUMENTS

Prior to this Amendment, claims 8 and 10-18 were pending in the application.

Independent claim 8 is amended to include the limitations of dependent claim 10 which was found by the Examiner to contain allowable subject matter, and claim 10 is canceled.

Independent claim 12 is amended to include the limitations of dependent claim 15, which is canceled, to clarify the steps performed during cluster reformation. It is requested that this amendment be entered and fully considered as the amendment merely acts to bring previously examined limitations from a dependent claim into an independent claim, and as a result, no additional searching or other burdens are placed on the Examiner. Also, this places claim 12 in condition for allowance or at least, in better condition for use on appeal.

Independent claim 16 is amended to include a limitation similar to that previously presented in allowable dependent claim 10.

Claims 8, 11-14, and 16-18 remain for consideration by the Examiner.

Allowable Subject Matter

In the November 17, 2004 Office Action, claim 10 was objected to as being dependent on a rejected base claim but was found to be allowable if rewritten in independent form. In response, base claim 8 is amended to include all the limitations of allowable claim 10, which depended from claim 8, and claim 10 is canceled. As a result, claims 8 and 11, which depends from claim 8, are believed in condition for allowance.

Similarly, independent claim 16 is amended to include a limitation similar to the method limitation of claim 10 but in system form. As a result of this amendment, claim 16 and claims 17 and 18, which depend from claim 16, are believed in condition for allowance.

- Serial No. 09/847,044
Amtd. Dated January 11, 2005
Reply to Final Office Action of November 17, 2004

Claim Objections

In the November 17, 2004 Office Action, claim 10 was objected to as being dependent on a canceled claim. Claim 10 is canceled by this amendment.

Rejections Under 35 U.S.C. §102

In the November 17, 2004 Office Action, claims 12-18 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,330,605 ("Christensen"). This rejection is traversed based on the following remarks.

Independent claim 12 as amended is directed to a method for monitoring the viability of cluster members that includes initiating a reformation if a heartbeat received is outside a time period. This includes determining a master node priority of each of the viable nodes and electing the viable node with the highest master node priority to be a new master node. Christensen fails to teach the claimed reformation and its included steps, and as a result, Christensen fails to support a 102 anticipation rejection of claim 12.

The Office Action cites col. 6, lines 16-56, col. 8, lines 27-38, col. 8, lines 4-45, and col. 9 line 39 to col. 10, line 45 for teaching each of the claimed reformation. However, the Christensen technique for determining an identity for a new "PCC coordinator" is different than that claimed in claim 12. As discussed at col. 10, lines 6-22, the preferred technique is a volunteer methodology. In some cases, an election may occur and the "election criteria may take into account the capacity of each PMM or a special connectivity mechanism to a monitoring system." As can be seen, Christensen provides no teaching or suggestion that "the viable node with the highest master node priority" is elected among the presently viable nodes as the new master node. Applicants request that a citation in Christensen be provided that teaches the restoration method of claim 12 or that the rejection be withdrawn.

Claims 13 and 14 depend from claim 12 and are believed allowable as depending from an allowable base claim.

Serial No. 09/847,044
Amdt. Dated January 11, 2005
Reply to Final Office Action of November 17, 2004

Independent claim 16 is directed to a system for monitoring cluster membership and has been amended to include a limitation similar to that of the allowable method limitation of claim 10. Specifically, claim 16 calls for "the locally running cluster membership monitor on a booting one of the plurality of peer nodes obtains at least a portion of the configuration data from the master node and configures the booting one of the plurality of peer nodes based on the obtained configuration data." At least this feature of the system of claim 16 is not shown in Christensen. Hence, claim 16 and claims 17 and 18, which depend from claim 16, are believed allowable over Christensen, and it is requested that the rejection be withdrawn.

Rejections Under 35 U.S.C. §103

Additionally, in the Office Action, claim 8 was rejected under 35 U.S.C. §103 as being unpatentable over U.S. Pat. No. 6,532,494 ("Frank"). Claim 8 is amended to include the limitations of allowable dependent claim 10. As a result, claim 8 is believed to be allowable over Frank.

Conclusions

The additional references cited in the Office Action but not relied upon by the Examiner have been considered but are believed no more relevant than Frank.

The pending claims are in condition for allowance, and Applicants request that a timely Notice of Allowance be issued in this case.

No fee is believed due with this Amendment. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



Kent A. Lembke, No. 44,866
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(720) 406-5378 Tel